

Penal mediation in Belgium. Insights on the basis of registered data.

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ABSTRACT:

Since 1994, public prosecutors in Belgium have been allowed to propose penal mediation to criminal suspects. The supervision and follow-up in this procedure are provided by 'justice assistants' (comparable to probation officers), who systematically record crucial information and register it in the national SIPAR database. An exploration of this database reveals interesting insights regarding the actual practice of penal mediation. On the basis of data from 2007 we describe the number and characteristics of cases of penal mediation in Belgium and the profile of the offenders concerned. On the basis of the available data we also examined whether or not we could find relevant correlations between characteristics of (offenders in) cases and the extent to which cases have resulted in an agreement and proper compliance with that agreement.

1. BACKGROUND AND LEGAL FRAMEWORK FOR PENAL MEDIATION IN BELGIUM

Penal mediation was introduced into Belgian criminal procedural law with the Act of 10 February 1994 on the Regulation of a Procedure for Penal Mediation (*Belgian Official Journal*, 27 April 1994). The act allows the Public Prosecution Service to deal with cases out of court. This concerns four measures that may be aggregated: (1) mediation between the offender and the victim with a view to repairing the harm done, (2) medical treatment or therapy lasting a maximum of six months, (3) a maximum 120 hours of community service and/or (4) a maximum 120 hours of education. The expression 'penal mediation' is a matter of debate from the start. In the case of three of the four possibilities the victim is hardly considered at all, so the penal mediation is often very much focused on the offender (Beyens, 2000).

This contribution will present figures and findings with regard to both the practice of penal mediation as a whole and also the specific victim-offender mediation modality.

In Belgium it is possible to make use of penal mediation only insofar as the offence does not appear to warrant a principal punishment exceeding two years of imprisonment or more (Article 216ter §1 Criminal Code). This refers to the sanction that the prosecutor would request in practice, assuming mitigating circumstances. This means that offences that are in theory punishable with 15-20 years of incarceration may in principle still qualify. (De Nauw, 1996: 450; Van den Wyngaert, 2009: 767).

Penal mediation was introduced with various objectives in mind (see inter alia De Ruyver, 1994; Raes, 2006: 304-306). It was expected to result in a more rapid and simplified response to 'city

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crime'. Mediation must make it possible to prioritise the interests of victims and is intended to offer them the opportunity to be directly involved. Penal mediation is intended to offer an alternative social response to offenders as regards offences that do not necessarily require the intervention of the courts. It also makes it possible to prevent the stigmatising effects of classic legal proceedings, and is intended to counteract the feeling among the general public that crimes go unpunished and to restore the trust of citizens in the law. It is true that the broad collection of objectives stated when penal mediation was introduced raised questions. Mincke (2010), among others, argues in his doctoral thesis that the practice of penal mediation appears to be the result of improvisation rather than a coherent practical development of a theoretical model. Nor is it clear whether current practice is actually able to realise the proposed objectives of offering a real alternative to the classical criminal law system (Mincke, 2010) or fulfilling the requirements of victims, setting up a more rapid response to delinquency, and responding to feelings of insecurity (Beyens, 2000).

Public prosecutors' offices can call on 'justice assistants' (similar to probation officers) to implement penal mediation.² If a Belgian public prosecutor wishes to make use of mediation, then a justice assistant will attempt to organise the mediation process, to which end he (or she) will conduct discussions with the parties concerned. The justice assistant will investigate the consequences of offences and what the parties expect. The public prosecutor can also suggest additional measures. Lastly, the justice assistant also asks the offender whether and which measures are feasible.

If the parties come to an agreement,³ then there will be a mediation hearing which will be recorded in an official report, which includes all the agreements. It is again up to the justice assistant to monitor compliance with what has been agreed. The criminal proceedings will be dropped if the offender complies fully with what is agreed. Otherwise the case will be sent back to the public prosecutor, who can then proceed with the prosecution.

A constant point of discussion after penal mediation was introduced concerns the risk of 'net widening' (see inter alia De Nauw, 1996; De Ruyver, 1994; Fijnaut et al., 2000). Cases that would previously have been dropped are now being taken up and are the subject of a social response by means of mediation. A few years after the law was enacted a general circular from the Minister of Justice and the Board of Attorneys General (no. COL 8/99) expressly stated that this measure was meant to offer an alternative to prosecution. Nonetheless we note that failed mediations often lead to dropped cases, which seems to show that mediation is used as an alternative to dropping cases and not to prosecution (see also Beyens, 2000; Goosen, 2001). The question is to what extent this net widening is unintentional. The parliamentary history of the 1994 Act shows that penal mediation was indeed aimed at lesser offences which often meet with no response from the justice system (De Souter, 1996-1997; Raes, 2006: 314-315), so mediation is then rightly used as an alternative to dropping cases.

² 'Justice centres' (which may be compared to probation services) were set up in Belgium in 1999. The justice assistants who work there are, among other things, responsible for following up penal mediation, probation, community service orders, penitentiary orders, conditional release and social defence.

³ This is an agreement between the offender and the victim through the victim-offender mediation and/or acceptance by the offender of possible additional measures (treatment or therapy, education or community service) which are proposed by the public prosecutor.

2. CONCISE RESEARCH METHODOLOGY⁴

This contribution explains the practice of penal mediation on the basis of figures from the SIPAR (Système Informatique PARajudiciaire) database. This is the database used by the justice centres to systematically register all offender orders that are followed up or supervised by justice assistants. The data that were used for this part of the research concerns the criminal offender orders that began in the year 2007 or that were still current in 2007.⁵

The methodology used can be termed mainly inductive. In the first phase we consider what the data do or do not provide, and how reliable they are. We then work on what are largely descriptive statistics and then explore some more potential lines for further analyses.

The data turned out to be of variable quality. We looked at indications of poor reliability for all variables and investigated the usefulness of variables for further analysis. Various variables that were provided were not used for different reasons such as too little response in non-obligatory fields, no uniform method of registering open fields, data that did not correspond to what was requested in the SIPAR manual, and so on.

In the first instance the data were evaluated and described using frequency tables. This gives us an initial picture of the use of penal mediation in Belgium. In the second instance we look more closely at the specific victim-offender mediation modality. Alongside some new general descriptive statistics we will consider whether the database lends itself to a more thorough analysis with regard to completing cases of which victim-offender mediation forms a part. Logistic regression models can be used to determine the extent to which we can explain, on the basis of the data that is obtained, (a) when the parties can come to an agreement or not, and (b) when the agreement has been successfully implemented or not.⁶

3. DESCRIPTIVE STATISTICS REGARDING PENAL MEDIATION IN BELGIUM

3.1. General figures

As regards penal mediation (referred to below as ‘PM’) there were 11957 current orders involving 11183 offenders in 2007. Of these, 6690 new orders were received during 2007, involving 6319 offenders.

The law provides for four different mediation modalities in criminal cases. In principle, justice assistants are required to register every decision, that is, both the initial proposal from the public prosecutor and the final decision at the prosecution hearing. However, there are a lot of gaps. In 44.9% of the orders that were completed in 2007 we cannot find any reliable information with regard to the public prosecutor’s proposal. In 14.1% of cases there is no reliable information

⁴ The research was promoted by Dr. Charlotte Vanneste (NICC).

⁵ 2007 was the last year for which we had SIPAR data available at the time that the analyses commenced.

⁶ Where this paper talks about successful or unsuccessful completion, this is meant in its narrow, process-based meaning: ‘successful’ merely means that the agreement was implemented as agreed in the justice assistant’s view. This says nothing about whether penal mediation also achieves its objectives.

about which modalities were included in the final agreement. This is because, among other things, a large number of reply categories were used when registering the modalities that are not related to penal mediation.⁷ In addition one can also see that there are clear differences in registration between different justice centres. Many justice centres hardly register any modalities or none at all where this concerns a proposal. The response level as regards final decisions varies from barely 41.4% in Mons to 97.9% in Antwerp.⁸

For these reasons it is necessary to exercise caution when interpreting the figures in tables 1 and 2. We can, however, see certain trends. Mediation between the offender and the victim is by far the most common modality (whether or not combined with other modalities), although this is reduced when the final decision has to be taken. Nonetheless, this modality is included in six out of ten of the final decisions. As regards the other modalities, training is the most frequently registered modality. This is included in more than one-third of final agreements. The question concerning this statistic is which modalities are hiding behind the reply category ‘other’, given that the law in principle provides for each of the stated modalities. In SIPAR, however, one can opt for the reply category ‘other’, and in the final agreement one can also opt for the reply categories ‘reprimand’ and ‘settlement’.⁹ The question here is whether these cases really concern penal mediation as envisaged by the law.

	Number of orders (N=3631)	
	n	%
Mediation	2801	77.1
Treatment	607	16.7
Community service	758	20.9
Education	1522	41.9
Other	332	9.1
Missing	2963	

Table 1 – Registered modalities as regards public prosecutor proposals – for orders completed in 2007

	Number of orders (N=2651)	
	n	%
Mediation	1616	61.0
Treatment	528	19.9
Community service	421	15.9
Education	974	36.7
Other	475	17.9
Missing	436	

Table 2 – Registered modalities as regards final public prosecutor decisions – for orders completed in 2007 where an agreement was reached

⁷ For more detailed information concerning the answers that were registered in this regard and the manner in which the data were, if possible, corrected, see the technical report (Burssens & Vanneste, 2011).

⁸ Measured according to the orders that were completed in 2007.

⁹ The categories ‘reprimand’ and ‘settlement’ are included under ‘other’ in these tables.

3.2. Description of offenders as regards penal mediation

Males made up 82.8 per cent of offenders with a PM order. The average age¹⁰ was 32 years and 8 months. Half of offenders (50.2 per cent) were 30 years or less. One in three (33.6 per cent) was between 31 and 45, and a minority (16.2 per cent) were 46 or older (see figure 1).

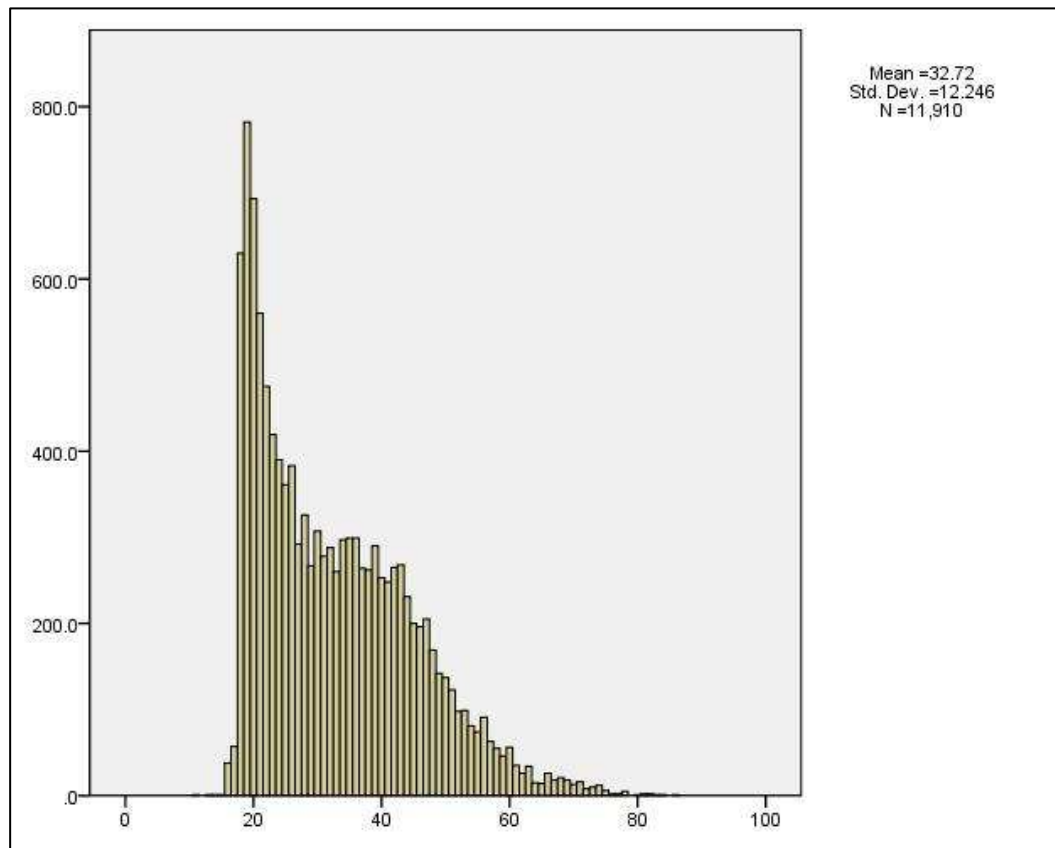


Figure 1 – Age of offenders at the start of the PM order – for new orders in 2007

It is not possible to make a reliable calculation of the origin of offenders on the basis of the registered nationality. We have determined that there are too many ‘missings’ here (23.5%). We find that the place of birth is registered more reliably. This shows that almost nine out of ten offenders were born in Belgium (89.3%), followed by mainly European countries (4.7%) and Africa (3.8%).

The civil status of offenders is not registered systematically, resulting in a large number of missings (41.6%). In addition, categories are used that are not clearly defined and which do not entirely exclude each other, including ‘invalid marriage’, ‘bogus marriage’, ‘unmarried’, ‘de facto separated’, etc.¹¹ The only relevant and more reliable demarcation that is useful for further

¹⁰ The age was calculated at the start of the order (the day on which the justice centre received the order and became responsible for it).

¹¹ The SIPAR manual for 2007 does not provide any information either about how to enter the civil status correctly.

analyses concerns married and cohabiting persons. These together formed 30.8 per cent of the group of offenders whose civil status was registered.

Nor is the income status of offenders with a PM order systematically registered; this is subject to a large number of missings (44.4%) as well. As regards offenders whose income status was registered, more than half were working (54.8%), more than one-quarter are dependent of welfare benefits (28.7%) and the remainder (16.4%) stated that they had no income whatsoever. The latter group mainly concerns students (n=697), in addition to a group who stated that they did not work or study or receive any benefits (n=325).

Offenders who were subject to a PM order almost always had only one ongoing PM order. Only 6.4% of these offenders had two or more current PM orders in 2007. In addition to PM orders, 1029 offenders also had at least one other current order in a house of justice during 2007. In most instances the offender combined this order with autonomous community service (4.3%) or with probation (3.9%). To a lesser degree, offenders with a PM within justice centres were also being monitored as regards conditional release, a penitentiary order or in the context of social defence (see figure 2).

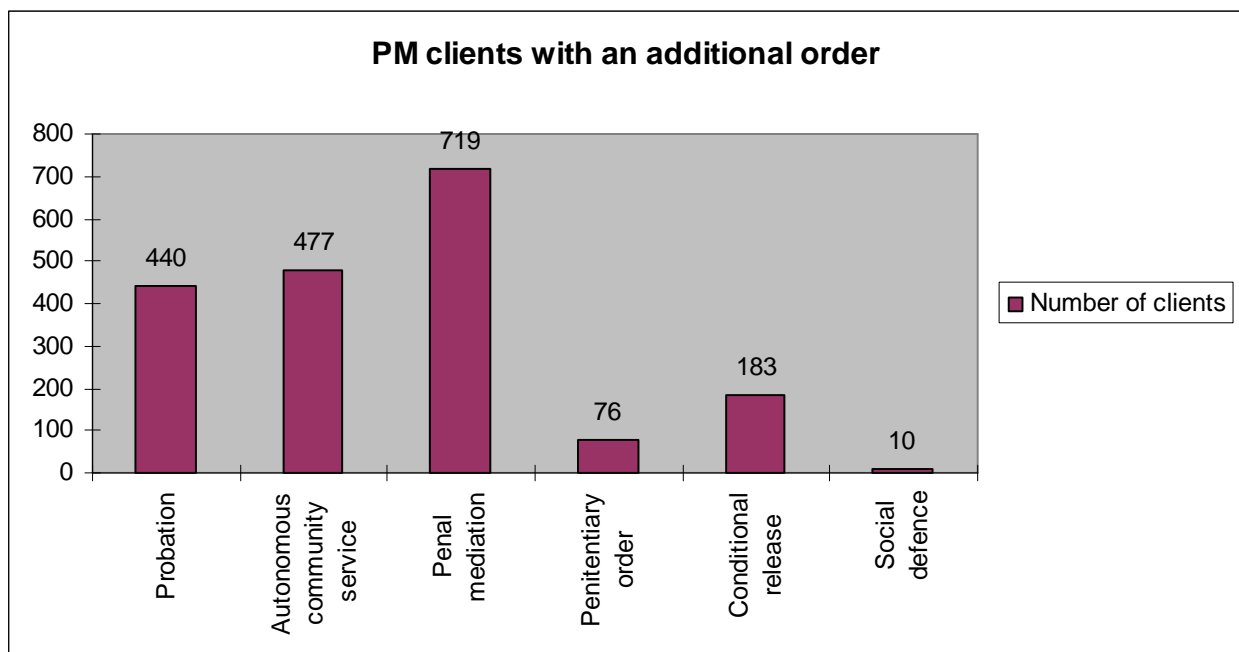


Figure 2 – Number of offenders who combine a PM order with an additional order – for new orders in 2007

The offences which gave rise to judicial intervention are also registered per order. It is possible to register several offences per order. Offences against the person were registered in the case of nearly half of new orders in 2007 (49.2%). More than one-quarter of orders (27.8%) concerned a property offence (among other things). Offences within the family also appear to a lesser degree, as well as traffic offences, public order offences, sex offences and drugs offences (see figure 3).

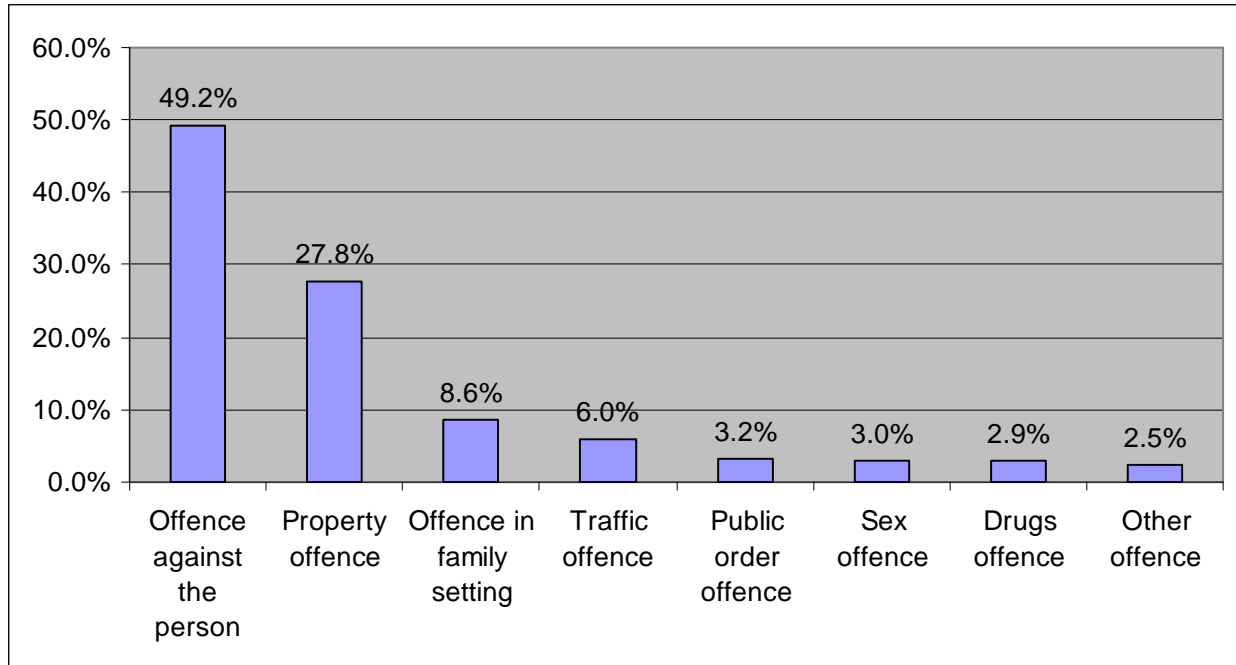


Figure 3 – Registered offences – for new orders in 2007

3.3. Completion of orders and afterwards

3.3.1. Manner of completing orders

6594 orders were terminated in 2007. Almost half (49.8%) of these were interrupted because the parties did not reach an agreement. The reasons for this are quite varied: the parties involved could not be contacted, the offenders committed new offences, third parties (lawyers, insurance organisations) intervened, not being able to find a reasonable agreement which all parties could agree to, etc.

When the parties did come to an agreement, this was successfully implemented in most cases (84.7%) (see table 3).

	Agreement achieved		Agreement implemented	
	n	%	n	%
No agreement	3062	49.8		
Agreement	3087	50.2		
Successfully implemented			2613	84.65
Not successfully implemented			474	15.35
Total	6149	100.0	3087	100.0
Missing	445		0	

Table 3 – Manner of completing orders in 2007

3.3.2. Following up completed orders

Once an order has been completed by the justice assistant, the public prosecutor will decide what is to happen with the case. While awaiting this decision the justice assistant will register the order as ‘for information to the prosecutor’. Once the decision is known it will also be registered.

Only in cases of successful mediation does the SIPAR manual request registration of automatic ‘lapse of criminal proceedings’, given that this is the consequence provided in law for successfully completed mediation. We nevertheless note that in a number of instances other decisions were registered following successful mediation, such as ‘abandonment of prosecution’, ‘settlement’, ‘transfer to another public prosecutor’ and even ‘prosecution or summons’ (see table 4). It is possible that other conditions were imposed which were not successfully followed up in addition to the penal mediation.

The likelihood of prosecution or summons is greatest where the mediation has not been successful. That possibility is for that matter greater in cases where parties did come to an agreement but where this was not successfully completed. In the second place, these orders often end with the case being dismissed. This is therefore contrary to the guidelines in the communal circular no. COL 8/99 and could therefore be an indication of ‘net widening’.

	No agreement	Agreement not implemented	Agreement properly implemented
	%	%	%
For information to prosecutor	31.7	28.9	0.2
Criminal proceedings abandoned	0.9	1.9	99.1
Case dropped	28.1	21.5	0.3
Settlement	0.3	0.2	0.1
Transfer to another public prosecutor	1.9	1.0	0.2
Transfer to a youth court	0.1	0.0	0.0
Prosecution or summons	36.1	46.2	0.1
Other	0.9	0.2	0.0
Total	100.0	100.0	100.0
N	2667	418	2396
Missing	395	56	217

Table 4 – Follow-up of completed orders in 2007

4. A CLOSER LOOK AT THE VICTIM-OFFENDER MEDIATION MODALITY

This part of the essay deals more closely with victim-offender mediation (‘VOM’) as one of the four modalities within the legal framework for penal mediation in Belgium. We will again describe the profile of offenders and the orders where victim-offender mediation was opted for in the public prosecutor’s proposal and/or in the final agreement between the parties concerned. The description covers all orders that were completed in the year 2007.¹² We will also consider the degree to which those orders have resulted in an agreement and whether the agreement was also successfully implemented. Finally, we will consider the degree to which we can explain, with the data provided, when there is the best chance of arriving at an agreement, and when agreements are most likely to be successfully implemented.

¹² For a number of variables it is in principle more logical to provide a description of all the orders that commenced in 2007. But given that we will work further on in the text on explanatory analyses relating to the completion of orders, the descriptive statistics in this section in every case also concern orders that were completed in 2007. In this way the subsequent explanatory statements each time concern the same group of offenders or orders that are discussed in the following descriptive section.

4.1. Description of offenders involved in victim-offender mediation

The description of offenders with VOM in the proposal and/or in the agreement is very consistent with the description that we gave above in relation to all offenders as regards penal mediation (see above: 3.2.).

Males constitute 82.8% of offenders with VOM in the original proposal. This percentage is more or less the same when we consider the final agreements which included VOM (81.9%).

The average age of offenders with VOM in the proposal or in the agreement is 34.

As has already been stated, it is not possible to make a reliable calculation of the origin of offenders on the basis of the registered nationality because of the excessive number of missings. If we look at the birthplace, then we see that almost nine out of ten offenders with VOM in the proposal were born in Belgium (86.9%), and this figure is even higher if we look at agreements (91.9%) (see table 5).

Country of birth	Proposal		Agreement	
	n	%	n	%
Belgium	2418	86.9	1478	91.9
Europe	151	5.4	63	3.9
Outside Europe	212	7.6	68	4.2
Missing	20		7	
Total	2801		1616	

Table 5 – Origin of offenders for orders with VOM in the proposal and in the agreement respectively – as regards completed orders in 2007

The civil status of offenders is not registered systematically either, resulting in a large number of missings. The data we have, classified according to the categories described above (see 3.2.), show that the offenders with VOM in the proposal or in the agreement were married or cohabiting in respectively 30.8 and 33.0 per cent of cases.

The income status of offenders with VOM in the proposal is very similar to that of offenders in cases of penal mediation in general (see above 3.2.). The number of those in work is higher regarding offenders where the final agreement also includes VOM (see table 6).

Income status	Proposal		Agreement	
	n	%	n	%
Working	825	54.0	724	60.1
Social assistance	470	30.8	322	26.7
No income	233	15.2	158	13.1
Missing	1273		412	
Total	2801		1616	

Table 6 – Income status of offenders for orders with VOM in the proposal and in the agreement respectively – as regards completed orders in 2007

We see the VOM modality most often in the case of orders which (among other things) concern an offence against the person, and also in cases of property offences and offences in a family setting (see table 7).

Offences	Proposal		Agreement	
	n	%	n	%
Offence against the person	1540	55.0	903	53.3
Property offence	809	28.9	547	32.3
Offence in family setting	356	12.7	121	7.1
Public order offence	85	3.0	47	2.8
Sex offence	61	2.2	78	4.6
Traffic violation	33	1.2	16	0.9
Drugs offence	12	0.4	15	0.9
Other offence	35	1.3	42	2.5

Table 7 – Registered offences for orders with VOM in the proposal and in the agreement respectively – as regards completed orders in 2007

4.2. Completion and follow-up of orders with victim-offender mediation

In 2007, 2801 orders were completed where the public prosecutor's proposal included VOM. Of these, more than six out of ten (61.5%) were interrupted because the parties did not reach an agreement. If they had reached an agreement, this does not mean that VOM would actually form part of the agreement. In approximately one in three cases an agreement was reached where VOM did not form part of the final agreement (see table 8).

Seen from the opposite perspective, if we look at all of the orders where VOM forms part of the agreement, then we see that 15.4% of these orders originally did not include any VOM in the public prosecutor's proposal.

Out of all the orders with VOM in the agreement, almost nine out of ten (87.0%) were successfully implemented (see table 9).

	Agreement achieved		VOM in the agreement	
	n	%	n	%
No agreement	1684	61.5		
Agreement	1053	38.5		
With VOM in the agreement			616	67.2
Without VOM in the agreement			301	32.8
Total	2737	100.0	917	100.0
Missing	64		136	

Table 8 – Reaching an agreement for orders with VOM in the proposal

	Agreement implemented	
	n	%
Successfully implemented	1406	87.0
Not successfully implemented	210	13.0
Total	1616	100.0
Missing	0	

Table 9 – Successful completion of the agreement for orders with VOM in the agreement

4.3. Connection of the completion of orders with victim-offender mediation with background features

In this section we attempt to determine whether certain features of a case affect the chances of successful completion. In the first instance we will explore the potential links on the basis of bivariate analyses. Then we will look at whether we have sufficient information with the data available from SIPAR to be able to explain the success or otherwise of penal mediation with VOM (to some extent). This will be done on the basis of logistic regression analyses.

We will first perform these analyses in relation to the chances of reaching an agreement or not. We will then do the same analyses in relation to the chances of the agreement being successfully completed.

4.3.1. Analyses as regards reaching an agreement or not

A number of variables do not show a significant connection in the bivariate analyses (see table 10) and are not retained either in the logistic regression analysis in the final model (see table 11). Thus we do not see any significant difference between men and women as to the degree to which they reach an agreement, nor do we see any connection with the civil status of persons.

In the end, six variables are deemed to be significant in the final logistic regression model¹³ (see table 11). Thus offenders up to the age of 25 are related to a significantly greater chance of an agreement compared to the older age groups. Someone without an income has half the chance of reaching an agreement compared to the group of working persons. Also, someone who has more than one current order and someone who has an order that is linked to an offence against the person or an offence in the family setting has a considerably lower chance of reaching an agreement. Finally, orders that are dealt with in a justice house in the Walloon Region are more likely to result in an agreement. This latter fact does not appear in the bivariate analysis. Here it appears that an agreement is more likely to be reached in Flanders than in the Brussels Region, but this is because the orders in Flanders are disproportionately given to offenders who have a job. When a correction for this is made, then it turns out that orders in Flanders result in an agreement just as often as in Brussels, and less often than in Wallonia.

A number of variables show a connection at first sight in the bivariate analyses but these have not been retained in the logistic regression end model. Thus the origin of the offender appears to affect the chances of reaching an agreement, but the regression analysis tells us that this is not the case. The apparent connection that was found in the bivariate analysis is related to an underrepresentation of working people in the case of offenders of foreign origin, and this is a group which reaches an agreement relatively often.

We also find a similar phenomenon as regards extending the order. In the case of orders where it was decided to prolong the order at least once, we see a significantly lower percentage of agreements. But this connection is not considered to be significant if we take into account the strong over-representation of such orders in the Flemish Region.

At first sight, property offences and sex offences again appear to lead to an agreement more often, but these variables are also not retained in the final model in the logistic regression. Property offences are over-represented within the youngest age group up to the age of 25. It is this characteristic that largely explains an apparent connection between property offences and an increased chance of an agreement. Property offences and sex offences are rarely registered in combination with offences against the person and offences in a family setting. As the results of

¹³ The exponential beta coefficients that are presented in tables 11 and 13 represent odds ratios. These give the ratio of the chance that an event will occur against the chance that the event will not occur. Or stated simply: if the coefficient exceeds 1, then this means that the event with the characteristic in question has a higher chance of happening. If the coefficient is less than 1, the chance of the event happening is lower.

the logistic regression model show, it is these latter categories of offences that strongly decrease the chance of an agreement.

However, the end model is not a strong model. We have determined that it has exceptionally low explicative power. The six variables that are retained together explain only 5.7 per cent of successful agreements or not. This is exceptionally little and means that the chances of an agreement depend mainly on elements other than those that we could involve in these analyses.

	Agreement	No agreement			
	% (n)	% (n)	χ^2	p	log reg
Gender (N = 2732)					
Male	38.9 (880)	61.1 (1384)			
Female	36.8 (172)	63.2 (296)	.734	.392	
Age (N = 2731)					
up to 25	44.3 (395)	55.7 (496)			
26 to 40	33.8 (362)	66.2 (710)			
41 and older	38.4 (295)	61.6 (473)	22.932	.000	*
Place of birth (N = 2718)					
Born in Belgium	39.7 (938)	60.3 (1425)			
Born in Europe	37.2 (55)	62.8 (93)			
Born outside Europe	24.6 (51)	75.4 (156)	18.344	.000	
Civil status (N = 1535)					
Married or cohabiting	44.0 (208)	56.0 (265)			
Other	42.7 (453)	57.3 (609)	.232	.630	
Income (N = 1501)					
No income	45.0 (103)	55.0 (126)			
Social assistance	48.6 (224)	51.4 (237)			
Work	50.4 (409)	49.6 (402)	2.178	.337	*
Renewed order (N = 2737)					
Never renewed	38.8 (1025)	61.2 (1614)			
Renewed at least one	28.6 (28)	71.4 (70)	4.209	.040	
Number of orders (N = 2737)					
One order	39.2 (957)	60.8 (1484)			
Several orders	32.4 (96)	67.6 (200)	5.116	.024	*
Property offence (N = 2735)					
None	35.9 (698)	64.1 (1244)			
At least once	44.6 (354)	55.4 (439)	17.999	.000	
Offence against the person (N = 2735)					
None	41.7 (514)	58.3 (720)			
At least one	35.8 (538)	64.2 (963)	9.660	.002	*
Sex offence (N = 2735)					
None	38.2 (1021)	61.8 (1655)			
At least one	52.5 (31)	47.5 (28)	5.049	.025	
Offence in family setting (N = 2735)					
None	39.5 (943)	60.5 (1442)			
At least one	31.1 (109)	68.9 (241)	9.090	.003	*
Region (N = 2737)					
Flanders	41.0 (212)	59.0 (305)			
Wallonia	40.5 (645)	59.5 (948)			
Brussels	31.3 (196)	68.7 (431)	17.919	.000	*

* The variable plays a significant role in the end model of the logistic regression.

Table 10 – Manner of completing orders with VOM in 2007 – Reaching an agreement according to offender and order characteristics

	Agreement (N = 1499)
Wallonia	1.352*
Brussels (Ref. Flanders)	1.021(n.s.)
26 to 40	.536***
41 or older (Ref. to 25)	.607**
Social assistance	.861(n.s.)
No income (Ref. Income from work)	.504***
Crime: offence against the person	.671**
Crime: offence in family setting	.407***
Several orders	.509***
Nagelkerke R ²	.057
Missing	1302

* p<0.05; ** p<.01 ; *** p<.001; (n.s.) = not significant

Table 11 – End model for reaching an agreement in case of penal mediation with VOM: exponential beta coefficients from the logistic regression

4.3.2. Analyses related to whether or not an agreement was successfully completed

Whether an agreement with VOM is successfully completed or not does not depend on the gender of the person involved or on his or her civil status, or on the offence to which the case is linked. From the bivariate analyses it appears that cases relating to sex offences do indeed lead more often to a successful completion to a significant degree, but this offence is not considered significant either after the logistic regression analysis.

Ultimately five variables have been retained in the logistic regression end model. Thus it turns out that older age groups reach a successful completion considerably more often than offenders up to the age of 25, while the chance of a successful completion is less with people who live on social assistance, who were born outside Europe and who have more than one order against them. Orders that are followed up in a justice centre in the Flanders Region are significantly more often successfully completed than orders that are followed up in the Brussels and Wallonia Regions.

14.1 per cent of the chance of successful completion is explained with the five variables that are retained. The explicative power of this model is far better than the model that seeks to explain the achievement of an agreement or not, but it remains modest. A large number of factors are involved here over and above the variables that we have available to us via the SIPAR database from the justice centres.

	Successful completion	No successful completion			
	% (n)	% (n)	χ^2	p	log reg
Gender (N = 1615)					
Male	87.2 (1153)	12.8 (170)			
Female	86.6 (253)	13.4 (39)	.054	.815	
Age (N = 1611)					
up to 25	84.1 (480)	15.9 (91)			
26 to 40	88.5 (471)	11.5 (61)			
41 and older	88.6 (450)	11.4 (58)	6.570	.037	*
Place of birth (N = 1609)					
Born in Belgium	87.7 (1296)	12.3 (182)			
Born in Europe	82.5 (52)	17.5 (11)			
Born outside Europe	76.5 (52)	23.5 (16)	8.395	.015	*
Civil status (N = 1095)					
Married or cohabiting	89.8 (324)	10.2 (37)			
Other	86.5 (635)	13.5 (99)	2.333	.127	
Income (N = 1204)					
No income	88.6 (140)	11.4 (18)			
Social assistance	79.2 (255)	20.8 (67)			
Work	89.1 (645)	10.9 (79)	19.318	.000	*
Renewed order (N = 1616)					
Never renewed	86.7 (1334)	13.3 (205)			
Renewed at least once	93.5 (72)	6.5 (5)	3.023	.082	
Number of orders (N = 1616)					
One order	88.4 (1329)	11.6 (175)			
Several orders	68.8 (77)	31.3 (35)	35.469	.000	*
Property offence (N = 1613)					
None	87.7 (967)	12.3 (136)			
At least one	85.7 (437)	14.3 (73)	1.217	.270	
Offence against the person (N = 1613)					
None	86.6 (649)	13.4 (100)			
At least one	87.4 (755)	12.6 (109)	.192	.661	
Sex offence (N = 1613)					
None	86.7 (1331)	13.3 (205)			
At least one	94.8 (73)	5.2 (4)	4.320	.038	
Offence in family setting (N = 1613)					
None	87.4 (1306)	12.6 (189)			
At least one	83.1 (98)	16.9 (20)	1.799	.180	
Region (N = 1616)					
Flanders	91.8 (920)	8.2 (82)			
Wallonia	78.5 (395)	21.5 (108)			
Brussels	82.0 (91)	18.0 (20)	54.955	.000	*

* The variable plays a significant role in the logistic regression end model.

Table 12 – Manner of completing orders with VOM in 2007 – Successful completion of an agreement according to offender and order characteristics

	Successful completion (N=1198)
Wallonia	.338***
Brussels	.273***
(Ref. Flanders)	
26 to 40	1.869**
41 or older	1.870**
(Ref. to 25)	
Social assistance	.507***
No income	1.315(n.s.)
(Ref. Income from work)	
Born in Europe (outside Belgium)	.712(n.s.)
Born outside Europe	.424*
(Ref. Born in Belgium)	
Several orders	.388***
Nagelkerke R ²	.141
Missing	418

* p<0.05; ** p<.01 ; *** p<.001; (n.s.) = not significant

Table 13 – End model for successful completion of agreements in case of penal mediation with VOM: exponential beta coefficients from the logistic regression

5. CONCLUSIONS

The general implementation of SIPAR in justice centres and the associated compulsory registration offer the chance to exploit very large databases. We have done so in this paper for the topic of penal mediation.

When putting together the descriptive statistics, reliability problems were found in the case of some not unimportant areas. Among other things, this is the case with data regarding the modalities that were included in the proposal or in the final agreement. Also the data concerning the nationality, civil status and income status require more reliable registration.

There is no doubt that we find the most useful output at the descriptive level. Here we observe that eight out of ten offenders with a penal mediation order are males, and that half of offenders are not over 30. Moreover, one out of ten offenders was not born in Belgium.

Offenders quite often have more than one current order within justice centres. With six per cent of them this concerns (at least) a second order regarding penal mediation, while almost one out of ten combines mediation with another criminal sanction, which usually involves autonomous community service or probation.

Also, the crimes which gave rise to the order are registered. This shows that half of the mediation orders were linked to an offence against the person, and that a little more than one quarter concerns a property offence. Offences in a family setting appear to a lesser degree, as well as traffic offences, public order offences, sex offences and drug offences.

If we look only at those orders where victim-offender mediation forms part of the original proposal or appears in the final agreement, then we find a more or less identical picture as regards these characteristics.

In this contribution we also looked at the course and the completion of penal mediation in Belgium. 6594 orders were completed in 2007. In approximately half of these this happened without any agreement being reached between the various parties. Out of the orders where an agreement was reached, some 85 per cent were successfully implemented. Whereas penal mediation is expressly stated to be an alternative to prosecution, we expect prosecution by the public prosecutor in case of an unsuccessful conclusion. But the registration figures show that this is absolutely not always the case. Perhaps this indicates that the introduction of penal mediation may have resulted in net widening.

In the case of orders where victim-offender mediation was included in the public prosecutor's proposal we see that the percentage of agreements is considerably lower (38.5%). In the case of agreements with victim-offender mediation the percentage of successful completions is again high at 87 per cent.

Finally, in the orders with victim-offender mediation we looked at the degree to which reaching an agreement or not can be explained by the data that are provided, and to what extent we can explain the successful implementation of an agreement or not with those data.

A logistic regression model was developed for both independent variables.

This shows that younger age groups (up to 25 years) will reach an agreement more easily but that they often implement this less successfully.

Offenders with a work income will reach an agreement significantly more often than the group without any form of income, while in particular offenders who are dependent of social benefits will implement their agreement successfully less often.

Anyone born outside Europe has a smaller chance of successfully completing an agreement with victim-offender mediation.

Offenders who had more than one current order in 2007 had much less chance of reaching an agreement, which was also the case as regards the chances of successfully implementing an agreement that had been made.

Where offences against the person or offences in a family setting are concerned, there is a smaller chance of an agreement. There is no correlation between the type of offence and the degree to which the agreement is successfully implemented.

Finally, we have also determined that orders with victim-offender mediation that are followed up in justice centres in the Walloon Region significantly more often lead to an agreement. Agreements with victim-offender mediation, however, are significantly more often successfully implemented in the Flanders Region.

It is necessary, however, to exercise extreme caution when interpreting the results from the logistic regression models. In particular, the model concerning reaching an agreement or not has exceptionally little explicative power. This means that there are a lot of other explicative factors that play a role beyond the variables we have available in the SIPAR database. Whether mediation does or does not lead to an agreement and is successfully implemented is largely explained by features other than those that were used in the models. This may concern characteristics of offenders or victims which are not (reliably) registered within SIPAR. This may also have something to do with the characteristics or skills of the mediator, or the organisational or structural characteristics (capacity, workload, etc.) of a justice centre or within a legal district, and so on. It is not inconceivable that, if such data were available, certain variables would no longer appear in current models.

The question is whether further quantitative analysis of SIPAR data in relation to penal mediation is required. The stated registration and reliability problems hinder the potential for more fundamental analyses. They may be valuable purely at a descriptive level, provided that there is continuing investment in improved reliability. But we can in any event conclude on the basis of the analyses described above that the collected SIPAR data are not sufficient to provide satisfactory answers in hypothesis testing research.

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